

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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In Re:
SONA MOBILE HOLDINGS CORP.,
Debtors.

2:12-cv-00252-PMP-RJJ

TIMOTHY S. CORY, et al.,
Plaintiffs,

BK-S-09-14577-BTB
Adv. No. 11-01118-BTB

v.

eBET LIMITED, et al.;
Defendants.

ORDER

Before the Court is Defendants eBet Limited and eBet Services Pty, Ltd.’s (collectively “the eBet Defendants”) Motion for Leave to Appeal (Doc. #5, Attach. 9), filed with the United States Bankruptcy Court for the District of Nevada on February 14, 2012, and transferred to this Court on March 2, 2012. Plaintiffs Timothy S. Cory, William A. Leonard, and Lenard E. Schwartzer filed a Response (Doc. #7) with this Court on March 2, 2012.

Debtors Sona Mobile Holdings Corp., Sona Innovations, Inc., and Sona Mobile, Inc. filed for voluntary bankruptcy on March 30, 2009. (Amend. Compl. (Bankr. Doc.

1 #132) at ¶ 1.) Plaintiff Timothy S. Cory is the Chapter 7 Trustee of Sona Mobile Holdings
2 Corp., Plaintiff William A. Leonard is the Chapter 7 Trustee of Sona Innovations, Inc., and
3 Lenard E. Schwartz is the Chapter 7 Trustee of Sona Mobile, Inc. (Id. ¶¶ 2-4.)

4 On April 15, 2011, Plaintiffs filed an adversary proceeding against Defendants in
5 bankruptcy court. (Transmittal of Mot. to Withdraw the Reference (Doc. #5), Attach. 3.)
6 The eBet Defendants filed a Motion to Dismiss or Transfer Venue based on a forum
7 selection clause in a pre-bankruptcy contract between Sona Mobile Holdings, Corp. and the
8 eBet Defendants. (Id., Attachs. 12-15; Amend. Compl. ¶ 23 & Ex. A.) The bankruptcy
9 court denied the eBet Defendants' Motion to Dismiss or Transfer Venue. (Transmittal of
10 Mot. to Withdraw the Reference, Attach. 6.)

11 The eBet Defendants filed an Answer, a Motion to Withdraw the Reference, and
12 a Motion for Leave to Appeal to this Court the bankruptcy court's order denying the eBet
13 Defendants' Motion to Dismiss. (Id., Attachs. 1, 5, & 9.) On October 30, 2012, the Court
14 granted the Motion to Withdraw the Reference. (Order (Doc. #18).) However, the Motion
15 for Leave to Appeal remains pending.

16 The district court for the district in which the bankruptcy judge is serving has
17 discretion to hear appeals from interlocutory orders of bankruptcy judges. 28 U.S.C.
18 § 158(a); In re City of Desert Hot Springs, 339 F.3d 782, 787 (9th Cir. 2003) ("It is within
19 the discretion of the district court . . . to hear interlocutory appeals." (quotation omitted)).
20 Here, the Court, in its discretion, will grant leave for appeal. After the eBet Defendants
21 moved for leave to appeal, the Court withdrew the reference and now has jurisdiction over
22 the action. Additionally, Defendant Anthony P. Toohey's Motion to Dismiss is pending
23 before the Court and implicates the same issue of whether the forum selection clause should
24 be enforced in this matter. The Court therefore will grant the eBet Defendants' Motion for
25 Leave to Appeal by treating it as a Motion to Dismiss, and the Court will order further
26 briefing regarding the applicability of the forum selection clause.

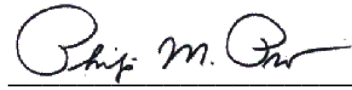
1 **IT IS THEREFORE ORDERED** that Defendants eBet Limited and eBet
2 Services Pty, Ltd.'s Motion for Leave to Appeal (Doc. #5, Attach. 9) is hereby **GRANTED**
3 to the extent it will be treated as a Motion to Dismiss.

4 **IT IS FURTHER ORDERED** that the Clerk of the Court shall detach and file
5 separately as a Motion to Dismiss Defendants eBet Limited and eBet Services Pty, Ltd.'s
6 Motion for Leave to Appeal (Doc. #5, Attach. 9).

7 **IT IS FURTHER ORDERED** that Plaintiffs shall file a responsive brief within
8 14 days from the date of this Order.

9 **IT IS FURTHER ORDERED** that Defendants eBet Limited and eBet Services
10 Pty, Ltd. shall file a reply brief within 7 days after service of Plaintiffs' responsive brief.

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12 DATED: January 29, 2013

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15 PHILIP M. PRO
16 United States District Judge
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